

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alona Katz	Team: Team # 1	CCRB Case #: 200307723	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/27/2003 9:24 PM	Location of Incident: Skillman Avenue & Thomson Avenue	Precinct: 108	18 Mo. SOL 3/27/2005	EO SOL 3/27/2005	
Date/Time CV Reported Wed, 10/01/2003 8:10 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 10/01/2003 8:10 AM		
<b>Complainant/Victim</b>	<b>Type</b>	<b>Home Address</b>			
<b>Witness(es)</b>	<b>Home Address</b>				
<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>		
1. LT Frank Tarantola	00000	905151	108 PCT		
<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>		
1. POM David Silberman	31986	931989	108 PCT		
<b>Officer(s)</b>	<b>Allegation</b>			<b>Investigator Recommendation</b>	
A.LT Frank Tarantola	Discourtesy: Lieutenant Frank Tarantola spoke obscenely to § 87(2)(b)				

### Synopsis

On September 27, 2003 at 9:24 PM, Lt. Tarantola observed § 87(2)(b)'s vehicle left unattended in the middle of the road on Skillman Avenue. § 87(2)(b) complained that Lt. Tarantola told him, "Move your fucking car" (Allegation A). Also in the car was § 87(2)(b) § 87(2)(g) Lt. Tarantola had his partner, PO Silberman, issue § 87(2)(b) a summons § 87(2)(b) § 87(2)(g)

### Summary of Complaint

§ 87(2)(b) a § 87(2)(b) Hispanic male who works four different jobs, was interviewed at the CCRB on October 1, 2003 (enc.4A-D). On September 27, 2003 at 9:24 PM, § 87(2)(b) was driving with his wife and infant daughter and had turned right onto Skillman Avenue off of Thompson Street. § 87(2)(b) was driving a 2003 20<sup>th</sup> anniversary GTI edition. § 87(2)(b) spotted another 2003 20<sup>th</sup> anniversary GTI edition and signaled for the male driver to pull over. § 87(2)(b) is not friendly with the driver but because they have the same car § 87(2)(b) wanted to talk to him about joining the auto club that he runs. The other driver pulled over and § 87(2)(b) stopped his own car about two or three feet away from the sidewalk. He acknowledged that he had not pulled his vehicle all the way over to the side of the road but denied that he was in the center of the street. § 87(2)(b) exited his vehicle and left the motor running as he only planned on talking to the other driver briefly. The block is a warehouse area and there was no pedestrian or vehicle traffic. There were not even any parked cars in the street. § 87(2)(b) had talked to the male for only about two minutes when an RMP pulled up behind § 87(2)(b)'s vehicle and signaled with its siren. An officer, later identified as Lt. Tarantola yelled to § 87(2)(b) through his open window, "Move your fucking car" (Allegation A). Also in the car was Lt. Tarantola's partner, later identified as PO Silberman. The driver that § 87(2)(b) had been talking to left the scene soon after this comment. § 87(2)(b) did not learn his name or any contact information.

§ 87(2)(b) did not feel that it was appropriate of Lt. Tarantola to talk that way and told him, "Honestly, do you need to talk to me that way? I don't think you need to talk to me that way." Lt. Tarantola then instructed him to pull his car over to the side. § 87(2)(b) complied and Lt. Tarantola and PO Silberman approached his car. PO Silberman stood on the passenger side by § 87(2)(b) Lt. Tarantola stood by the driver's side and requested his license and registration in a loud tone. § 87(2)(b) supplied his documentation and again asked Lt. Tarantola if he needed to talk to him that way and told him "I work in § 87(2)(b) and you don't need to speak to me in that manner. If you're gonna give me a ticket, give me a ticket but don't talk to me in that way." The officers returned to their RMP with his information and after about 10 minutes Lt. Tarantola returned to § 87(2)(b)'s car and gave him a summons (that was filled out by PO Silberman) § 87(2)(b). The officers then departed from the scene.

Prior to the interview, § 87(2)(b) stated that he had been at the DMV and complained to a clerk about the way Lt. Tarantola had spoken to him. The clerk suggested that § 87(2)(b) file a complaint at the CCRB. § 87(2)(b) understood that the CCRB investigation could not affect the disposition of the summons. § 87(2)(b)

### Results of Investigation

§ 87(2)(b) § 87(2)(b)'s wife, was interviewed at § 87(2)(b) on October 17, 2003 (enc.5A-C). On September 27, 2003 around 9:24 PM, § 87(2)(b) stated that her husband had pulled over to talk to the driver of another car that was the same model as his. § 87(2)(b) did not think that § 87(2)(b) was blocking the center of the road. There were no cars parked along the sidewalk nor was there any vehicle or pedestrian traffic at the time. She described the block as an industrial area. § 87(2)(b) had just stepped out when an RMP pulled up behind their car. § 87(2)(b) then stated that an officer, later identified as Lt. Tarantola "yelled to move our fucking car" (Allegation A). The driver of the other vehicle left shortly afterwards.

§ 87(2)(b) was upset because he felt it was wrong for Lt. Tarantola to speak that way when he could have just asked nicely. As § 87(2)(b) walked back to his vehicle he told Lt. Tarantola who was still in the

RMP, “Do you need to talk to me that way? Just ask me to move the car. You don’t need to speak that way.” § 87(2)(b) moved his car over and Lt. Tarantola and his partner, identified as PO Silberman, approached their vehicle. Lt. Tarantola requested § 87(2)(b)’s license and registration in a “bad tone.” § 87(2)(b) told him, “I don’t understand. You can just ask me these questions. You don’t have to talk to me this way. It’s not necessary.” § 87(2)(b) looked at PO Silberman, who was standing by her side of the car, and he looked at her as if to say, “don’t even bother because it’s over with now.” He also said, “What if someone was speeding down the block?” and § 87(2)(b) said “Sorry.” § 87(2)(b) supplied his license and registration.

The officers went back to their police vehicle and when Lt. Tarantola returned with a summons § 87(2)(b) told him “You didn’t have to talk that way. We didn’t do anything. If we had to move over you could have just asked.” There was no further interaction. The officers then departed from the scene.

#### Officer Identification

PO Silberman was identified from a copy of the summons provided by § 87(2)(b). Lt. Tarantola was identified as his partner on the day of the incident from Roll Call and PO Silberman’s statement.

#### Officer Statements

##### **Subject Officer Statement: Lt. Tarantola**

Lt. Tarantola was interviewed at the CCRB on December 15, 2003 (enc.7A-D). On September 27, 2003, Lt. Tarantola was performing patrol with PO Silberman. Around 9:24 PM, the officers were returning to their command along Thompson Avenue. When they reached the intersection of Thompson and Skillman, they turned onto Skillman Avenue and Lt. Tarantola observed a vehicle with the engine running that had been left unattended in the middle of the east bound lane on Skillman Avenue. Lt. Tarantola characterized that block as a commercial area that can have a lot of traffic because it is near an exit for the Queensborough bridge. Lt. Tarantola stated that the vehicle was obstructing vehicular traffic and causing a great risk of danger to oncoming traffic. He affirmed that there were cars on the street at the time of the incident but could not specify how many. Lt. Tarantola pulled up directly behind the vehicle. There was no driver in the vehicle but there was a female in the passenger seat and an infant in the rear seat. Lt. Tarantola utilized his lights and also tapped on the siren.

Lt. Tarantola observed a male, later identified as § 87(2)(b) across the street talking to someone in another vehicle. From inside his RMP through his open window, Lt. Tarantola asked § 87(2)(b) if that was his vehicle. § 87(2)(b) affirmed that it was and stated that he was just speaking to someone. Lt. Tarantola told him, “Sir, you have to move your car.” § 87(2)(b) replied, “In a minute, I’m just talking to this person.” Lt. Tarantola again told him that he had to move his car and § 87(2)(b) again said he would do it in a minute because he was talking to someone. Lt. Tarantola then issued a third lawful order for § 87(2)(b) to move his vehicle and § 87(2)(b) began walking back to his vehicle. As he walked back he tried to “bait” Lt. Tarantola into an argument by stating that he was § 87(2)(b) and “I don’t need this. I told you I was just going to be a minute.” Lt. Tarantola did not recall § 87(2)(b) complaining that he didn’t need to talk to him in a disrespectful way. Lt. Tarantola denied that he told § 87(2)(b) “Move your fucking car.”

After § 87(2)(b) moved his car Lt. Tarantola approached and requested his documentation. PO Silberman also approached the vehicle from the passenger side. Lt. Tarantola then issued a summons to § 87(2)(b). There was no further interaction.

##### **Witness Officer Statement: PO Silberman**

PO Silberman was interviewed at the CCRB on November 26, 2003 (enc.6A-F). On September 27, 2003, PO Silberman was partnered with Lt. Tarantola. At 9:24 PM, PO Silberman and Lt. Tarantola were driving up Skillman Avenue when they observed a vehicle with its motor running in the middle of the street. PO Silberman characterized the block as “industry type” and could not recall if there was any vehicular traffic at the time of the incident. The lights of the vehicle were on and it was parked in the middle of the eastbound lane. The officers pulled behind the vehicle and from inside the RMP Lt. Tarantola called out to a male, identified as § 87(2)(b) who was across the street and asked him if that was his vehicle. Lt. Tarantola’s window was open. § 87(2)(b) replied that it was and Lt. Tarantola told him that he needed to

move his vehicle. § 87(2)(b) stated that he needed a minute because he was talking. Lt. Tarantola then instructed him to pull over and § 87(2)(b) complied. The officers then exited their vehicle and approached the vehicle where Lt. Tarantola took the male's information. PO Silberman stood on the passenger side of the car and could not hear the conversation between § 87(2)(b) and Lt. Tarantola. The officers then returned to their vehicle where Lt. Tarantola instructed PO Silberman to prepare a summons § 87(2)(b). Lt. Tarantola returned to the vehicle to issue the summons.

PO Silberman did not recall if § 87(2)(b) ever complained about the way Lt. Tarantola talked to him when he was walking back to his car and denied that § 87(2)(b) said anything about working § 87(2)(b). PO Silberman then stated that he could hear Lt. Tarantola talking but not § 87(2)(b). When questioned about the fact that he had heard § 87(2)(b) say, "Give me a minute. I'm still talking" PO Silberman stated that that was the only thing § 87(2)(b) had said loud enough for him to hear because his own window was closed. PO Silberman did not hear Lt. Tarantola say, "Move your fucking car." PO Silberman did not know if § 87(2)(b) expressed any displeasure about the way he was treated at the scene and stated that § 87(2)(b) was cooperative.

#### Police Documentation

A copy of the summons (enc.8) prepared by PO Silberman and issued to § 87(2)(b) § 87(2)(b). The summons also cites § 87(2)(b). A copy of Roll Call (enc.9A-G) for the date of incident verifies that Lt. Tarantola and PO Silberman were working and partnered together. § 87(2)(b)

#### Civilian Criminal Conviction History and Subject Officer CCRB History

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

A review of Lt. Tarantola's CCRB history (enc.5) shows that he has been a member of the force for 10 years and has two other complaints, one of which was exonerated. The other case is still pending an outcome.

#### Conclusions and Recommendations

##### **Allegation A: Lieutenant Frank Tarantola spoke obscenely to § 87(2)(b)**

According to § 87(2)(b)'s CCRB testimony, Lt. Tarantola pulled up in his RMP behind § 87(2)(b)'s car on Skillman Avenue and yelled "Move your fucking car." At the time § 87(2)(b) was standing on the other side of the street talking to another driver. § 87(2)(b) was still inside their vehicle § 87(2)(b), § 87(2)(g)

Both PO Silberman and Lt. Tarantola denied the allegation. § 87(2)(g)

§ 87(2)(b) according to Lt. Tarantola § 87(2)(b) told him three times that he needed a minute to move his car before he complied. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) According to § 87(2)(b) he told Lt. Tarantola that he works § 87(2)(b) and that the Lieutenant didn't need to speak to him in that way. Lt. Tarantola also stated that § 87(2)(b) told him he works § 87(2)(b) but denied that he complained about how the Lieutenant spoke to him. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g) PO Silberman initially stated that he heard § 87(2)(b) tell Lt. Tarantola that he needed a minute because he was talking. § 87(2)(g) when further questioned as to if § 87(2)(b) complained about how Lt. Tarantola had addressed him PO Silberman then stated that he could only hear Lt. Tarantola talking and not § 87(2)(b). He then stated that § 87(2)(b)'s first comment was the only thing he said loud enough for him to hear. § 87(2)(b), § 87(2)(g)

Patrol Guide Procedure 203-10 (enc. I) prohibits an officer from using discourteous language. In analyzing the use of discourteous language in Police Department vs. Anthony Teeter (enc. IIA-C) it was found that despite the fact that officers may encounter “provocative” individuals they are “nonetheless required to maintain a certain decorum and professionalism in their conduct.” Police Department vs. Carlton (enc. IIIA-C) discusses the fact that police officers are allowed to use strong language to “convey urgency.”

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: